

APPEAL NO. 040053
FILED FEBRUARY 27, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 6, 2003, and continued to December 8, 2003. The record closed on December 11, 2003. The hearing officer determined that the compensable injury of _____, does extend to and include the respondent's (claimant) bilateral reflex sympathetic dystrophy (RSD) in her upper and lower extremities and her pain related depression. The appellant (carrier) appealed, arguing that expert medical testimony was required to prove by a reasonable medical probability that the claimant's compensable injury extends to and includes RSD and depression. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that she was employed as an assistant manager to a car rental business and that her duties included cleaning out rental cars. On _____, the claimant was cleaning out a car when she tripped and fell injuring her right knee, right ankle, and right wrist. A medical report dated _____, reflects that the claimant complained of pain and swelling to her right knee and right wrist. The claimant was released to work light duty, however she continued to have pain and swelling in her knee and was taken off work in July 1999. The claimant testified that she was diagnosed with RSD in her right extremities and that the RSD has spread to her left extremities, and that she is depressed because of the pain associated with RSD. The claimant stated that she is unable to move two of her fingers and her thumb, that she falls down constantly, and that her legs and arms give out. The claimant contends that she has developed bilateral RSD in her upper and lower extremities and that her depression is due to the RSD. The carrier contends that the medical evidence does not support that the claimant's compensable injury gave rise to RSD and depression. There is conflicting medical evidence.

The issue of whether the claimant's compensable injury extends to and includes RSD in her upper and lower extremities and her pain related depression presented a question of fact for the hearing officer to resolve. There was considerable conflicting expert medical evidence presented in this case. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). It was a matter for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Insurance Company of

Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In this instance, the hearing officer summarized the medical evidence in some detail and concluded that the claimant sustained her burden of proving the causal connection between her compensable injury and the RSD and depression. The hearing officer was acting within his province as the fact finder in giving greater weight to the testimony and evidence from the claimant's treating doctor and the other doctors who attribute the claimant's development of RSD and depression to her compensable injury at work over the contrary evidence offered by the carrier. We are satisfied that the expert medical evidence in the form of medical reports, from the claimant's treating doctor and several referral doctors together with the testimony of the claimant's psychologist, Dr. B, sufficiently support the challenged determination and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Accordingly, no sound basis exists for us to reverse the extent-of-injury determination that the compensable injury includes RSD in her upper and lower extremities and her pain related depression. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **FIDELITY AND GUARANTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge